

IN THE SUPREME COURT OF THE STATE OF DELAWARE

ANTHONY L. JONES,	§	
	§	No. 106, 2006
Defendant Below,	§	
Appellant,	§	
	§	
v.	§	Court Below: Superior Court
	§	of the State of Delaware
STATE OF DELAWARE,	§	in and for Sussex County
	§	Cr. I.D. No. 0506019235
Plaintiff Below,	§	
Appellee.	§	

Submitted: July 26, 2006
Decided: August 28, 2006

Before **HOLLAND, BERGER** and **RIDGELY**, Justices.

O R D E R

This 28th day of August, 2006, on consideration of the briefs of the parties, it appears to the Court that:

1) Anthony L. Jones appeals from his convictions, following a jury trial, of trafficking in cocaine, possession with intent to deliver cocaine, maintaining a vehicle for that purpose, possession of drug paraphernalia, and possession of marijuana. He argues that: i) he was unfairly prejudiced when the jury saw him being escorted into the courtroom by correctional guards; ii) the trial court erred in admitting the drugs into evidence because there was a “flaw” in the chain of custody; and iii) the trial

court erred in restricting his closing argument. We find no merit to these claims, and affirm.

2) On June 21, 2005, Corporal Lance Skinner, of the Delaware State Police, was on patrol in a marked car when the Honda Accord in front of him made a sudden right turn into a private driveway without signaling. Skinner followed the car into the driveway; then he and his partner, Corporal McColgan, got out and approached the car. Skinner noticed the smell of marijuana coming from the car. He ordered Jones, who was driving, to get out of the car, and Jones attempted to flee. Skinner and McColgan subdued Jones, placed him in handcuffs, and placed him in the back of the patrol car.

3) Skinner noticed that Jones was squirming around while seated in the back of the patrol car. At the police station, Skinner checked under the back seat and found Jones's cell phone and a lighter, which Skinner returned to Jones. Before Skinner started his next shift on the following day, he searched his vehicle, as he did every day before he started a shift. Under the front seat, Skinner found a knit bag containing several plastic baggies of cocaine and marijuana. That bag was not in the patrol car the previous day, and no one had been inside the car since Skinner's last search except Jones. Skinner arrested Jones again, and questioned him about the bag. Jones

admitted that it was his, that the marijuana was for his personal use, and that the cocaine was for sale.

4) Jones's first argument is that he suffered unfair prejudice when the jury saw him being escorted into the courtroom by correctional officers. When the trial court became aware of what had happened it took precautions to avoid having that happen again.¹ In addition, the trial court instructed the jury that it is not unusual for a defendant to be incarcerated during the period from arrest to trial, and that the jury should not infer that Jones's incarceration is any indication of guilt.

5) Jones did not request a mistrial, or any other relief beyond the curative steps undertaken by the trial court. Accordingly, we review for plain error, which is error that is "so clearly prejudicial to substantial rights as to jeopardize the fairness and integrity of the trial process."² We find no plain error. Jones was not handcuffed, shackled, or wearing prison clothing; the incident only happened once; and the trial court instructed the jury not to draw any adverse inferences.³

6) Jones's second claim is that the drugs should have been excluded from evidence because Skinner opened the bags of drugs on the morning of trial, and

¹The trial court gave instructions to have the jury brought in after the defendant was in the courtroom.

²*Wainwright v. State*, 504 A.2d 1096, 1100 (Del. 1986).

³*Cf. Brookins v. State*, 354 A.2d 422, 425 (Del. 1976).

thereby compromised the chain of custody. When this issue arose, the trial court questioned Skinner, who explained that he opened the bags to show the contents to Detective Wright, and that he did so in the presence of the prosecutor. Skinner then resealed the bags and placed his signature on the seals. The trial court admonished the State not to follow that procedure in the future, but ruled that the evidence still was admissible. The trial court acted well within its discretion in concluding that opening the bags at that time, and under those circumstances, did not compromise the chain of custody.⁴

7) Finally, Jones argues that the trial court impermissibly limited his ability to raise a defense. During closing, Jones attempted to raise the fact that the State had not fingerprinted the plastic bags containing the drugs as a way of raising doubt about the State's proof. The State objected, and the trial court sustained the objection on the ground that there was no evidence presented at trial about fingerprint testing.

8) Jones contends that the trial court denied him a "meaningful opportunity to present a complete defense."⁵ This argument is misguided. There is no suggestion that the trial court prevented Jones from asking the State's witnesses about whether they tested the baggies for fingerprints. Jones chose not to ask any questions about

⁴*Guinn v. State*, 841 A.2d 1239, 1241 (Del. 2004).

⁵*Crane v. Kentucky*, 476 U.S. 683, 690 (1986).

that, perhaps because he knew that the answers would not be helpful. Since neither Jones nor the State presented any evidence about fingerprint testing, there was nothing on that subject for Jones to discuss during closing argument. The trial court correctly sustained the State's objection to that portion of Jones's closing argument.⁶ NOW, THEREFORE, IT IS ORDERED that the judgments of the Superior Court be, and the same hereby are, AFFIRMED.

BY THE COURT:

/s/ Carolyn Berger
Justice

⁶*Michael v. State*, 529 A.2d 752, 763 (Del. 1987).